

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>JAMES PATRICK,</b>	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	
<b>ERIE COUNTY COURT OF COMMON</b>	<b>)</b>	<b>Civil Action No. 12-156 Erie</b>
<b>PLEAS, <u>et al.</u>,</b>	<b>)</b>	<b>District Judge Sean J. McLaughlin</b>
	<b>)</b>	<b>Magistrate Judge Susan Paradise Baxter</b>
<b>Respondents.</b>	<b>)</b>	

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

**I. RECOMMENDATION**

It is respectfully recommended that this case be dismissed without prejudice due to the Petitioner's failure to comply with this Court's Order of July 17, 2012.

**II. REPORT**

Petitioner, James Patrick, is a state inmate currently incarcerated at the State Correctional Institution Albion. On July 10, 2012, the Clerk's Office received a document from him that he entitled a petition for a writ of habeas corpus. [ECF No. 1]. It did not comply with Rule 2 of the Rules Governing Section 2254 Cases In the United States District Courts and this Court's Local Rules governing actions under 28 U.S.C. § 2254 (LCvR 2254(B)). It also was not accompanied by the required \$5 filing fee or a motion to proceed *in forma pauperis*.

On July 17, 2012, the Court issued the following Order:

1. The Clerk of Court shall furnish Patrick with the standard form entitled Petition Under 28 U.S.C. § 2254 For Writ of Habeas Corpus By a Person In State Custody and the standard form entitled Motion and Declaration In Support of Motion to Proceed In Forma Pauperis;

2. Patrick shall complete the standard form entitled Petition Under 28 U.S.C. § 2254 For Writ of Habeas Corpus By a Person In State Custody and submit it at this civil action number on or before August 16, 2012;
3. Patrick must pay the filing fee of \$5. If the fee is paid, his Petition Under 28 U.S.C. § 2254 For Writ of Habeas Corpus By a Person In State Custody will be filed. If he is unable to pay the filing fee, he may request permission to proceed *in forma pauperis* by completing and signing the Motion to Proceed In Forma Pauperis. Also, he must submit a certificate signed by an officer at the institution where he is confined showing the amount of money that the institution is holding for him.

IT IS FURTHER ORDERED that failure to comply with this Order will result in a recommendation from the undersigned that this case be dismissed without prejudice.

[ECF No. 2].

As of today's date, Patrick has failed to comply with the Order. Accordingly, it is recommended that this case be dismissed without prejudice.

/s/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
United States Magistrate Judge

August 30, 2012

cc: The Honorable Sean J. McLaughlin